

also be considered the insured's legally adopted child. We apply the adoption laws of the State or foreign country where the adoption took place, not the State inheritance laws described in § 404.355, to determine whether you are the insured's legally adopted child.

[44 FR 34481, June 15, 1979, as amended at 63 FR 57594, Oct. 28, 1998]

§ 404.357 Who is the insured's stepchild.

You may be eligible for benefits as the insured's stepchild if, after your birth, your natural or adopting parent married the insured. You also may be eligible as a stepchild if you were conceived prior to the marriage of your natural parent to the insured but were born after the marriage and the insured is not your natural parent. The marriage between the insured and your parent must be a valid marriage under State law or a marriage which would be valid except for a *legal impediment* described in § 404.346(a). If the insured is alive when you apply, you must have been his or her stepchild for at least 1 year immediately preceding the day you apply. For purposes of determining whether the conditions of entitlement are met *throughout* the first month as stated in § 404.352(a)(2)(i), you will be considered to meet the one year duration requirement throughout the month in which the anniversary of the marriage occurs. If the insured is not alive when you apply, you must have been his or her stepchild for at least 9 months immediately preceding the day the insured died. This 9-month requirement will not have to be met if the marriage between the insured and your parent lasted less than 9 months under the conditions described in § 404.335(a)(2).

[48 FR 21928, May 16, 1983, as amended at 64 FR 14608, Mar. 26, 1999]

EFFECTIVE DATE NOTE: At 64 FR 14608, Mar. 26, 1999, § 404.357 was amended by adding a new sentence following the first sentence, effective Apr. 26, 1999.

§ 404.358 Who is the insured's grandchild or stepgrandchild.

(a) *Grandchild and stepgrandchild defined.* You may be eligible for benefits as the insured's grandchild or stepgrandchild if you are the natural

child, adopted child, or stepchild of a person who is the insured's child as defined in §§ 404.355 through 404.357, or § 404.359. Additionally, for you to be eligible as a grandchild or stepgrandchild, your natural or adoptive parents must have been either deceased or under a disability, as defined in § 404.1501(a), at the time your grandparent or stepgrandparent became entitled to old-age or disability benefits or died; or if your grandparent or stepgrandparent had a period of disability that continued until he or she became entitled to benefits or died, at the time the period of disability began. If your parent is deceased, for purposes of determining whether the conditions of entitlement are met *throughout* the first month as stated in § 404.352(a)(2)(i), your parent will be considered to be deceased as of the first day of the month of death.

(b) *Legally adopted grandchild or stepgrandchild.* If you are the insured's grandchild or stepgrandchild and you are legally adopted by the insured or by the insured's surviving spouse after his or her death, you are considered an adopted child and the dependency requirements of § 404.362 must be met.

[44 FR 34481, June 15, 1979, as amended at 48 FR 21928, May 16, 1983]

§ 404.359 Who is the insured's equitably adopted child.

You may be eligible for benefits as an equitably adopted child if the insured had agreed to adopt you as his or her child but the adoption did not occur. The agreement to adopt you must be one that would be recognized under State law so that you would be able to inherit a child's share of the insured's personal property if he or she were to die without leaving a will. The agreement must be in whatever form, and you must meet whatever requirements for performance under the agreement, that State law directs. If you apply for child's benefits after the insured's death, the law of the State where the insured had his or her permanent home at the time of his or her death will be followed. If you apply for child's benefits during the insured's life, the law of the State where the insured has his or her permanent home at the time or your application will be followed.